

## ARTICLE 60-03

### PESTICIDES

#### Chapter

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60-03-02	Minor Use Pesticide Fund [Repealed]
60-03-03	Worker Protection Standard

#### CHAPTER 60-03-01

#### PESTICIDE SALE, DISTRIBUTION, AND USE

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**60-03-01-01. Scope.** This chapter is promulgated pursuant to North Dakota Century Code chapter 4-35 and shall apply to any sale, distribution, or use of pesticides within this state. This chapter shall be applied in conjunction with North Dakota Century Code chapter 4-35.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 4-35-06

**60-03-01-02. Definitions.** As used in this chapter, the following words shall have the meaning given to them below, unless otherwise made inappropriate by use and context. Words not defined in this section shall have the meaning given to them in North Dakota Century Code chapter 4-35.

1. "Act" means the North Dakota Pesticide Act.

2. "Board" means the North Dakota pesticide control board created pursuant to North Dakota Century Code section 4-35-02.
3. "Broadcast" means any intentional application of a pesticide over an area, such as a lawn, field, room, crawl space, or other such surface.
4. "Bulk pesticide" means any volume of pesticide that is intended to be repackaged, can be accurately metered, and can be transported or held in an individual container.
5. "Bulk pesticide facility" means any area, location, tract of land, building, structure, or premises used for the handling or storage of bulk pesticides.
6. "Certification" means recognition by the board or its designee that a person is competent and thus authorized to use or supervise the use of restricted use pesticides.
7. "Commissioner" means the North Dakota agriculture commissioner.
8. "Compensation" means monetary payment for a specific service.
9. "Competent" means properly qualified to perform functions associated with pesticide applications, the degree of capability required being directly related to the nature of the activity and the associated responsibility, including receiving proper training to know and understand the pesticide label, the product name and rate to be applied, proper application techniques, recordkeeping requirements, identifying workplace hazards, worker protection standards, and emergency response.
10. "Custom blend" means any diluted mixture of pesticide prepared by a dealer to the specifications of the end-user and not held in inventory.
11. "End-use labeling" means the written, printed, or graphic matter on, or attached to or accompanying the pesticide or device or any of its containers or wrappers.
12. "End-user" means the person who applies the pesticide.
13. "FIFRA" means Federal Insecticide, Fungicide, and Rodenticide Act of 1947.
14. "General use pesticide" means any pesticide formulation which is not classified for restricted use by the board.
15. "Handling" means the mixing, loading, application, repackaging, storage, transportation, distribution, sale, purchase, or disposal of pesticides.

16. "Mixture" means any diluted combination of pesticide with fertilizer, seed, or other medium.
17. "Mobile container" means a container used to transport pesticides.
18. "Operational area" means a permanent containment area where pesticides are transferred, loaded, unloaded, mixed, repackaged, or refilled; where pesticides are cleaned or rinsed from containers; or application, handling, storage, or transportation equipment.
19. "Permanent containment area" means:
  - a. An aboveground pad or dike constructed of impervious material, such as sealed concrete, stainless steel, or other material as approved by the department of agriculture;
  - b. Bermed, curbed, sloped, or otherwise designed to contain spills, leaks, releases, or other discharges that are generated during the handling of pesticides or pesticide-containing materials;
  - c. Does not have a drain which exits the containment area; and
  - d. All seams and cracks must be sealed to prevent leakage.
20. "Pesticide-containing material" means:
  - a. Any container of a pesticide product that has not been triple-rinsed or the equivalent of triple-rinsed;
  - b. Any rinsate that is derived from a pesticide container, pesticide application equipment, or equipment washing;
  - c. Any material that is used to collect or contain excess or spilled pesticide or rinsate;
  - d. Any mixture of pesticide and diluent such as wash water, rinse water, or rainwater; or
  - e. Material that is generated as a result of contact with or utilization of a pesticide in an application, containment, recovery, reuse, or treatment system. The term does not include personal protective equipment that contains pesticide residue.
21. "Pesticide-producing establishment" means any site where a pesticide is manufactured, packaged, repackaged, prepared, processed, labeled, relabeled, or held for distribution.

22. "Repackaging" means the transfer of a pesticide in an unaltered state from a container into a designated or dedicated refillable container.
23. "Rinsate" means a dilute mixture of pesticide obtained by rinsing pesticide containers or from rinsing the inside and outside of spray equipment.
24. "Spill kit" means a portable kit or other equipment that is designed to recover, minimize, contain, or absorb spills, leaks, releases, or other discharges of pesticides.
25. "Under the direct supervision" means the act or process whereby the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is responsible for the actions of that person and who is available if and when needed, even though the certified applicator is not physically present at the time and place the pesticide is applied. The certified applicator must be able to arrive at the location of a supervised applicator within thirty minutes.
26. "Use of a pesticide" means the loading, mixing, applying, storing, transporting, distribution, and disposing of a pesticide.
27. "Use of a pesticide in a manner inconsistent with its labeling" means to use any pesticide in a manner that is not permitted by the label, except that the term does not apply to any of the following:
  - a. Applying a pesticide at any dosage, concentration, or frequency that is less than that specified on the label, unless the label specifically prohibits deviation from the specified dosage, concentration, or frequency.
  - b. Applying a pesticide against any target pest that is not specified on the label if the application is to the crop, animal, or site that is specified on the label.
  - c. Employing any method of application that is not prohibited by the label unless the label specifically states that the product may be applied only by the methods specified on the labeling.
  - d. Mixing a pesticide or pesticides with a fertilizer when the label does not prohibit such mixture.

- e. Any use of a pesticide that is in compliance with section 5, 18, or 24 of the Federal Insecticide, Fungicide, and Rodenticide Act of 1947 [Pub. L. 104-170; Stat. 7 U.S.C. 136 et seq.].

**History:** Amended effective April 15, 1985; October 1, 1990; July 1, 1992; March 1, 2003; July 1, 2004.

**General Authority:** NDCC 4-35-06

**Law Implemented:** NDCC 4-35-06

**60-03-01-03. Restricted use pesticides.** The North Dakota restricted use pesticides shall be the same as those declared to be restricted use pesticides by the United States environmental protection agency and others declared at the discretion of the commissioner.

**History:** Effective August 1, 1978; amended effective February 1, 1982; October 1, 1990; July 1, 1992; July 1, 2004.

**General Authority:** NDCC 4-35-06

**Law Implemented:** NDCC 4-35-06

**60-03-01-04. Prohibited pesticides. [Reserved]**

**60-03-01-05. Categories of certification.** Applicators may apply for certification in one or more of the following categories:

1. **Agricultural pest control (plant and animal).** This category authorizes the application or sale of pesticides intended for agricultural crop land, grasslands, and noncrop lands. This also includes the use of pesticides on animals and animal facilities.
2. **Seed treatment.** This category authorizes the application or sale of pesticides on agricultural crop seeds, other seeds, and vegetative seed stocks.
3. **Fumigation.** This category includes controlling pests in stored and transported agricultural crops, grain milling equipment, and storage facilities.
4. **Ornamental and turf pest control.** This category includes pesticides to control pests in the production and maintenance of ornamental trees, shrubs, flowers, and turf.
5. **Greenhouse.** This category includes pesticides to control pests in a greenhouse.
6. **Right of way.** This category includes pesticides to control pests in the maintenance of public roads, electric powerlines, pipelines, railways, right of ways, parking lots, or other similar areas.

7. **Public health pest control.** This category includes state, federal, or other government employees, or applicators working under government contract, using pesticides in public health programs for the management and control of pests having medical and public health impacts.
8. **Research and demonstration pest control.** This category includes individuals who demonstrate or apply pesticides for education and research. These would include county agents, extension specialists, state, federal, and commercial employees, plus other persons conducting research or demonstrating the proper application of restricted use pesticides.
9. **Home, industrial, and institutional pest control.** This category includes commercial applicators using pesticides in, on, or around food-handling establishments, human dwellings, public or private institutions, warehouses, grain elevators, and any other structures or adjacent area, for the control of pests.
10. **Wood preservatives.** This category includes commercial applicators who apply and treat with wood preservatives to preserve and protect wood, posts, and various lumber products from pests.
11. **Vertebrate.** This category includes commercial applicators who use pesticides for the control of certain pest vertebrate, such as rodents, certain predators, and bats.
12. **Metam-sodium.** This category includes commercial applicators who use or sell the restricted use pesticide metam-sodium (sodium N-methyldithiocarbamate dihydrate) for the purpose of controlling tree or other plant roots infesting sewer systems.

**History:** Amended effective February 1, 1982; October 1, 1990; November 1, 1991; March 1, 1996; August 1, 2000; March 1, 2003.

**General Authority:** NDCC 4-35-06, 4-35-12

**Law Implemented:** NDCC 4-35-08, 4-35-09, 4-35-12, 4-35-14

#### **60-03-01-05.1. Commercial or public applicator and dealer.**

1. A commercial or public applicator or dealer, or commercial applicator and dealer certificate shall be issued in accordance with North Dakota Century Code section 4-35-09 or 4-35-12 or sections 4-35-09 and 4-35-12 respectively, only to those persons who successfully complete the certification examination established by the board, and who pay the certification fee.
2. The board shall establish a certification examination which shall be administered by any North Dakota state university extension designate in accordance with North Dakota Century Code section 4-35-09 or

4-35-12. The examination shall be given by the North Dakota state university extension designate only to those persons who:

- a. Are eighteen years of age or older;
  - b. Complete an application on forms and in the manner required by the board or its designee; and
  - c. Demonstrate competence in the application, use, and handling of pesticides.
3. Commercial or public applicators or dealer or commercial applicator and dealer certificates shall expire on April first following the third anniversary of the year of certification or recertification. Every commercially certified person shall be recertified by an approved seminar or an approved examination, or both if required by the board, at least every third year.
  4. Any person who fails an examination may retake such examination after three or more days.
  5. All commercial or public applicators must be certified in proper category of application.
  6. All dealers must be certified in the proper category of the labels.
  7. If the pesticide is labeled for more than one target pest, the dealer only needs to be certified in one of the categories.

**History:** Effective March 1, 2003; amended effective July 1, 2004.

**General Authority:** NDCC 4-35-06

**Law Implemented:** NDCC 4-03-09, 4-35-12, 4-35-14

**60-03-01-05.2. Private applicator certification.**

1. A private applicator certification shall be issued in accordance with North Dakota Century Code section 4-35-14 only to those persons who:
  - a. Are eighteen years of age or older;
  - b. Complete an application on forms and in the manner required by the board or its designee; and
  - c. Demonstrate competence in the application of pesticides.
2. The board designates the North Dakota state university extension service to provide training, administer testing, and issue certification to

competent private applicators. An individual seeking certification as a private applicator may demonstrate competence by:

- a. Attending an approved educational seminar, signing of a certificate of attendance, and passing a written examination administered by the board or its designee;
  - b. Completing a course of self-instruction and passing a written examination administered by the board or its designee; or
  - c. Passing the dealer, public applicator, or commercial applicator certification examination and submitting the passing grade to the board or its designee.
3. Persons purchasing, storing, or applying restricted use grain fumigants must be commercially trained and must pass a fumigation examination. At the option of the applicant upon successfully passing the examination, the certificate issued will be for either private or commercial application of restricted use fumigants. The fee for the private and commercial certification will be set by the North Dakota state university extension service.
  4. Every private applicator shall be recertified by attending an approved seminar or by taking an approved examination at least every third year. A certified private applicator must be recertified by attending an approved seminar or by taking an approved examination, or both if required by the board, at least every third year.
  5. Any person who fails an examination may retake such examination after three or more days. No more than three examinations may be given before requiring attendance at another initial training course.

**History:** Effective March 1, 2003; amended effective July 1, 2004.

**General Authority:** NDCC 4-35-06, 4-35-12

**Law Implemented:** NDCC 4-35-08, 4-35-14

#### **60-03-01-05.3. Pesticide certification examination - Cheating.**

1. An individual who seeks certification under section 60-03-01-05.1 or 60-03-01-05.2 may not, while taking a written examination, give or receive information or assistance to or from any other person, utilize the assistance of any electronic device capable of storing data, or consult any written materials unless expressly authorized in advance by the board or its designee. The written examination and any other writings made during the examination period must be provided to the board or its designee at the end of the examination period.
2. Cheating by an applicant in applying for or taking the examination may result in the invalidating of examination grades, expulsion from the



examination room, disqualification from taking the examination for a specified period of time, and other penalties the board may impose. When the board believes that cheating has occurred, the applicant or certified individual must be given notice and an opportunity to be heard pursuant to North Dakota Century Code chapter 28-32 before imposing any penalties.

**History:** Effective July 1, 2004.

**General Authority:** NDCC 4-35-06, 4-35-12

**Law Implemented:** NDCC 4-35-08, 4-35-09, 4-35-12, 4-35-14

#### **60-03-01-05.4. Certification denial.**

1. The board, or its designee, may refuse to issue a pesticide certification, including an applicant for reciprocal certification under North Dakota Century Code section 4-35-18, to an individual who has had that individual's certification suspended or revoked in the past three years in any state or province.
2. The board, or its designee, may require an additional demonstration of applicator qualification if the applicator has had a license suspended or revoked or has otherwise had a history of pesticide violations.

**History:** Effective July 1, 2004.

**General Authority:** NDCC 4-35-06

**Law Implemented:** NDCC 4-35-08, 4-35-09, 4-35-12, 4-35-14, 4-35-18

#### **60-03-01-06. Pesticide mixing, loading, and application - Storage - Transportation - Disposal.**

1. **Mixing, loading, and application.**
  - a. All pesticides shall be used in accordance with the label.
  - b. Pesticide applications shall be made in a manner that prevents off-target discharges of pesticides.
  - c. Pesticide application or loading equipment that is designed to draw water from surface water shall have a properly functioning antisiphoning device attached to the inlet hose.
  - d. Applications shall not occur when the atmospheric conditions favor the off-target drift of pesticides or prevent the proper deposition of pesticides to the target area.
  - e. Pesticides shall be applied in a manner that minimizes the exposure to animals. Unless permitted by the labeling, an applicator shall take all reasonable precautions that will prevent a pesticide from being applied if unprotected persons are present

within the application site or are present in adjacent areas when off-target drift may occur.

- f. Pesticide applicators and persons assisting with an application shall follow all safety precautions as specified on the container label.
- g. All equipment used in pesticide mixing, loading, and application must be operationally sound and properly calibrated to prevent adverse effects on the environment.
- h. Any commercial applicator who mixes, loads, or otherwise uses pesticides shall have immediate access to a spill kit at the loading site containing not less than two buckets, absorptive pillows, or another system for containing leaking nozzles or a pesticide spill. The spill kit requirement does not apply to a person who uses single containers of pre-mixed, ready-to-use pesticides.
- i. The product labels, a legible reproduction of the labels, or a specimen label of the pesticides that are being applied must be at the application site during the time of application. Aerial applicators must have a label available at the loading site.

## **2. Storage.**

- a. All pesticides, except bulk pesticides, shall be stored in their original container and in accordance with label recommendations. All labels of stored pesticides shall be plainly visible. All pesticide containers must have a proper label affixed to them.
- b. All pesticides shall be stored in dry, well-ventilated spaces, and in a manner that will not endanger humans, animals, or the environment, nor contaminate food or feed through a release or escape.
- c. If a storage area contains a floor drain, it must be sealed or self-contained.
- d. Pesticide storage areas must be marked at all entrances.
- e. Label-specific safety equipment for all pesticides stored must be available at the immediate storage site.
- f. Pesticides shall be secured in a manner to prevent children, unauthorized persons, or animals from gaining entry or access to the stored pesticides.

### 3. **Transportation.**

- a. All pesticides, except bulk pesticides, shall be transported in their original containers. All pesticides must be transported in a secure manner to avoid breakage of containers, spills, or any other manner of contamination.
- b. Pesticides shall not be transported with foodstuffs, feed, or any other product or material so as to pose a hazard to humans, animals, or the environment.
- c. Equipment contaminated in the transportation of pesticides shall be cleaned and decontaminated prior to any other use.

### 4. **Disposal.**

- a. Empty pesticide containers shall be stored in accordance with label recommendations and in a manner which will not endanger humans, animals, or the environment.
- b. Empty nonreturnable pesticide containers shall be triple-rinsed or equivalent on the day of their use. Secondary use of such containers which would endanger humans, animals, or the environment is prohibited.
- c. Pesticide containers shall be disposed of in accordance with label directions and in a manner which will not endanger humans, animals, or the environment.

**History:** Amended effective April 15, 1985; October 1, 1990; July 1, 1992; May 1, 1994; March 1, 1996; March 1, 2003; July 1, 2004.

**General Authority:** NDCC 4-35-06

**Law Implemented:** NDCC 4-35-06, 4-35-20

### **60-03-01-07. Recordkeeping - Dealers and commercial or public and custom applicators and private applicators.**

- 1. **Dealers.** Every pesticide dealer shall keep separate, accurate, and complete records of all purchases and sales of restricted use pesticides and all pesticides used under section 18 (emergency exemption) and section 24-c (special local needs) of FIFRA. The records shall include the following for each pesticide purchased or sold:
  - a. Purchases.
    - (1) Dealer's name and address.
    - (2) Pesticide name.

- (3) Quantity of pesticide.
- (4) Date pesticide was shipped or received.
- (5) Distributor's name (person from whom the pesticide was received).

b. Sales.

- (1) Dealer's name and address and identification of person making the sale.
- (2) Name, address, certification number, and signature of private or commercial applicator.
- (3) Date of sale.
- (4) Trade name or common name and quantity of pesticide sold.
- (5) Running inventory by product.
- (6) Certification category and expiration date of the certification.
- (7) Intended application site or intended crop for all pesticides used under section 18 of FIFRA.
- (8) Dealers shall positively identify all purchasers of restricted use pesticide products.

2. **Commercial or public applicators.** Commercial or public applicators shall keep a record of all pesticide applications and of the use or disposal of all pesticide rinsate. A copy of the records must be provided to the client or the applicator must have on file a signed letter giving the applicator permission to keep the records for the client. The record shall include for each application:

- a. Name and address of the person for whom the pesticide was applied.
- b. Legal description of the land, grain bin identification, railcar number, or other description of where the pesticide was applied.
- c. Pest or pests controlled.
- d. Starting and completion time the pesticide was applied (month, day, year, and hour).
- e. Person who supplied the pesticide that was applied.

- f. Specific trade name of the pesticide applied and environmental protection agency registration number of the pesticide that was applied.
- g. Direction and estimated velocity of the wind and the estimated temperature of the outdoor air at the time the pesticide was applied. This requirement shall not apply if a bait is used to attract the pest or pests or if the application is made indoors.
- h. Amount of pesticide used, including:
  - (1) Pounds [kilograms] or gallons [liters] per acre [.40 hectare] of formulated product.
  - (2) Percentage or pounds [kilograms] of active ingredient.
  - (3) Pounds [kilograms] or gallons [liters] of tank mix applied per acre [.40 hectare].
- i. Specific crops, commodities, and total acreage [hectarage] or other common identifying unit of measure to which the pesticide was applied.
- j. Description of equipment used in application.
- k. Certification number of applicator, if any, and signature.
- l. Right-of-way applicators must record weather conditions and geographic location in two-hour increments.
- 3. **Private applicators.** Private applicators shall keep a record of all restricted use, section 18 exemptions, and special local needs pesticide applications. The records must include for each application:
  - a. Legal description of the land, grain bin identification for fumigant or grain protectant applications, or other description of where the pesticide was applied.
  - b. Time the pesticide was applied (month, day, year, and hour of the day).
  - c. Specific trade name of the pesticide applied and environmental protection agency registration number of the restricted use pesticide that was applied.
  - d. Amount of pesticide used, including:
    - (1) Pounds [kilograms] or gallons [liters] per acre [.40 hectare] of formulated product.

- (2) Total amount of chemical applied.
- e. Specific crops, commodities, and total acreage [hectarage] or other common identifying unit of measure to which the pesticide was applied.
- f. Certification number of applicator, if any, and applicator signature.

Records made pursuant to this section shall be completed and made available for inspection on the day the pesticide is applied.

**History:** Amended effective October 1, 1990; May 1, 1994; March 1, 1996; March 1, 2003; July 1, 2004.

**General Authority:** NDCC 4-35-06

**Law Implemented:** NDCC 4-35-06, 4-35-16

**60-03-01-07.1. Report of loss records.** Any applicator receiving alleged pesticide damage claims shall notify the claimant, by certified mail, return receipt requested, of the verified report of loss notification required by North Dakota Century Code sections 4-35-21.1, 4-35-21.4, and 4-35-21.5 and shall retain the return receipts and a photocopy of the notice for a period of three years.

**History:** Effective July 1, 2004.

**General Authority:** NDCC 4-35-21

**Law Implemented:** NDCC 4-35-21, 4-35-21.1, 4-35-21.2

**60-03-01-08. Unlawful acts.** Repealed effective March 1, 2003.

**60-03-01-09. Reports of pesticide accidents.** Any person who is involved in or causes a pesticide accident that results in adverse effects on animals or the environment shall file a report to the commissioner. The report must be made within twenty-four hours after the accident. The report may be filed by letter, telephone, or electronic mail at the address or number identified in subsection 4 of section 60-01-01-01. The report must contain:

1. The name of the pesticide.
2. The amount of pesticide or tank mix, or both.
3. The location of the pesticide accident.
4. The time of accident (month, day, year, and hour).
5. The direction and estimated velocity of the wind and estimated temperature at the time of the accident, if outdoors.

6. Actions taken to remedy the adverse effects on animals and the environment.

**History:** Effective February 1, 1982; amended effective March 1, 1996; March 1, 2003.

**General Authority:** NDCC 4-35-21

**Law Implemented:** NDCC 4-35-21

#### **60-03-01-10. Labeling and relabeling of bulk pesticides.**

1. Any person that produces a mixture of any quantity of pesticide, to be applied by another person, and holds the mixture in inventory, must have an environmental protection agency establishment number.

The person making the mixture must supply the person applying the mixture with end-use labeling for each pesticide in the mixture. The end-use labeling must have the facilities establishment number printed on it.

2. The environmental protection agency establishment number and end-use labeling must be attached to bulk pesticide storage tanks.
3. The environmental protection agency establishment number, end-use labeling, and quantity of pesticide repackaged must accompany or be attached to the mobile bulk pesticide container.
4. Any person that custom blends any quantity of pesticide to be applied by another person must ensure that end-use labeling for all pesticides in the blend accompanies the blend to the point of end use. No establishment number is required for the blending facilities.

**History:** Effective April 15, 1985; amended effective October 1, 1990; July 1, 1992; May 1, 1994; January 1, 1997; March 1, 2003.

**General Authority:** NDCC 4-35-06

**Law Implemented:** NDCC 4-35-06, 4-35-15, 4-35-20

#### **60-03-01-11. Storage and transportation of bulk pesticides.**

1. The transportation and storage of all bulk pesticides must be in compliance with the manufacturer's requirements.
2. The transportation of bulk pesticides must meet all applicable standards of state and United States department of transportation rules and regulations.
3. A bulk pesticide storage container must be made of materials and so constructed to be compatible with the pesticide stored and the conditions of storage, including any specifications that may appear on the pesticide labels and labeling.

4. A bulk storage container and loading areas must be constructed and located on a site in a manner so that pesticides will not contaminate streams and water supplies.
5. A permanent bulk storage container must be equipped with a locking withdrawal valve or must be stored in a secure locked area. The valves or storage area must be locked during nonbusiness hours or while unattended.
6. A bulk pesticide storage container that is going to be refilled with a different pesticide must be cleaned and rinsed according to both the repackager's and manufacturer's agreed-upon written instructions and all former labeling must be removed.
7. An outdoor permanent containment area must be constructed of sufficient size and material so as to contain any spilled or discharged materials. Minimum containment capacity shall be one hundred twenty-five percent of the single largest bulk pesticide storage container, or sufficient to recover and contain a volume of a four-inch rainfall, whichever is greater.
8. An indoor permanent containment area located within an enclosed structure must be constructed of sufficient size and material to contain any spilled or discharged materials, and approved by the pesticide registrant. Minimum containment capacity shall be one hundred ten percent of the single largest bulk pesticide storage container.

**History:** Effective March 1, 2003; amended effective July 1, 2004.

**General Authority:** NDCC 4-35-06

**Law Implemented:** NDCC 4-35-06, 4-35-15

**60-03-01-12. Packaging and repackaging requirements for liquid or dry bulk pesticides.**

1. A person must obtain a repackaging agreement from the registrant prior to repackaging liquid or dry bulk pesticides.
2. Must be performed at a facility with an environmental protection agency establishment number.
3. Must use meters or scales, or both, compatible with the pesticide being repackaged.
4. Must be done in a permanent containment area with a primary shutoff valve or switch within immediate reach of the person who is engaged in the repackaging operation.
5. An operational area must be kept clean of clutter and not used as a storage area for items not immediately used for repackaging.



6. A spill kit must be located within fifty feet of an operational area.
7. Clean up of any spilled pesticide-containing materials must be performed immediately after the occurrence and reported according to local, state, and federal guidelines.
8. A pesticide or pesticide-containing material must be contained either by the permanent containment area itself or drained, pumped, or transferred to an additional impermeable, aboveground holding tank or reservoir until utilized or disposed of in compliance with applicable local, state, and federal laws. The holding tank or reservoir must be suitably constructed to prevent the release of pesticides or pesticide-containing materials to the environment.

**History:** Effective March 1, 2003.

**General Authority:** NDCC 4-35-06

**Law Implemented:** NDCC 4-35-06, 4-35-15, 4-35-20

**60-03-01-13. Prohibitions.** No person may:

1. Package or repackage into a container unless the container is capable of holding, in undivided quantities, the capacity as specified by the environmental protection agency.
2. Place bulk pesticide storage containers underground.
3. Repackage into improperly labeled containers is prohibited.
4. Repackage into containers not designated as reusable by the registrant and container manufacturer is prohibited.

**History:** Effective March 1, 2003.

**General Authority:** NDCC 4-35-06

**Law Implemented:** NDCC 4-35-06, 4-35-15, 4-35-20